IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 975 OF 2007

Hari Prasad Sharma .... Petitioner

versus

G.T.C. Industries Limited..... Respondent.

Shri L.M.Charya for the petitioner
Shri Jayesh K.Desai i/b. M/s. Desai & Desai
Associates for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 6TH MARCH, 2007

P.C.;

1. The award passed by the Labour court dismissing a reference is challenged by the workmen by filing the present writ petition. The petitioner was proceeded against by issuing a charge sheet touching various act for misconduct. The petitioner was charged with misconduct and indecent behaviour on the premises of establishment and for rude behaviour and use of threats on the premises of the establishment. The petitioner did not reply the charge sheet and though the company examined four witnesses in support of the charge, the petitioner did not step into the witness box. He cross examined three of the witnesses examined by the management whereas the fourth witness has not been cross examined.

2. The labour court has held that the enquiry was

conducted in adherence to principles of natural justice and the enquiry was fair. Touching the merits of the matter the labour court has held that the misconduct is proved on the basis of material and evidence on record. The said finding is supported by the evidence of witnesses. Touching the submission made by the learned counsel for the petitioner that the punishment is shockingly disproportionate for the act of misconduct, the labour court has examined the past service record of the petitioner and having found that the same is far from satisfactory, has held that the past record does not mitigate against the misconduct.

3. The learned counsel for the petitioner has pointed out that an extraneous factor has been taken into consideration, in record to which there was no enquiry held. The same relates to a complaint made by one father Augustin of St. Francis Zavier's Church, touching the behaviour of the petitioner. Even if the said circumstance is removed from consideration, the past service record clearly reveals that the petitioner had apologised on two occasions and was punished for unauthorised absence on two other occasions. Taking over all view of the matter, it is seen that past service record of the petitioner is not good so as to render the punishment impugned, is shockingly disproportionate.

4. Perused the order passed by the labour court. No interference is called for. Hence writ petition is summarily rejected.

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